

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK
COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: New England (CENAE-R)
FILE NUMBER: NAE-2005-3068

REGULATORY PROJECT MANAGER: Alan R. Anacheka-Nasemann, PWS Date: 2/01/2006

PROJECT REVIEW/DETERMINATION COMPLETED: In the office Y (Y/N) Date: 1/26/2006
 At the project site Y (Y/N) Date: 9/29/2005

PROJECT LOCATION INFORMATION:

State: Massachusetts
 County: Essex
 Center coordinates of site by latitude & longitudinal coordinates: 42.6225°N; 70.6573°W
 Approximate size of site/property (including uplands & in acres): 33 Acres
 Name of waterway or watershed: 01090001: Charles

SITE CONDITIONS:

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands	(4)	(1)							
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area. Total Non-jurisdictional Area = 4.85 acres in five separate wetlands.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			X		
Is or would be used as habitat by other migratory birds that cross state lines?			X		
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?		X			

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary Or Approved X.

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):

Site Conditions: Site is a 33-acre, abandoned boulder mining field. Several wetland areas (3, 6, 7) existed as of 1944; these never had outlets. Two other wetland areas (1, 2) May have resulted from excavation incidental to boulder-mining operations; however, operation has long been abandoned, thus other factors were assessed to determine jurisdiction.

Rationale used to determine NJD: None of the five wetlands described here has any outlets and they are not proximal to any existing stream. They are isolated, intrastate wetlands with no nexus to interstate or foreign commerce.

Site information on waters of the U.S. occurring on site: Two small wetlands in NE corner of the site, totaling 0.41 acre, occasionally overflow into culverts which convey surface water under an existing highway, into existing drainage ditches and a surface tributary system. These wetlands are jurisdictional pursuant to 33 CFR 328.3(a)(7).